

REMARKS

Reconsideration of the present application is respectfully requested in view of the following remarks. Prior to entry of this response, Claims 1-21 were pending in the application, of which Claims 1 and 14 are independent. In the Final Office Action dated March 16, 2004, Claims 1, 3-4, 8, and 10-11 were rejected under 35 U.S.C. § 102(b), and Claims 2, 14-17, 19, and 21 were rejected under 35 U.S.C. § 103(a). Claims 5-7, 9, 12-13, 18, and 20 were objected to, but were deemed allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Following this response, Claims 1-21 remain in this application. Applicants hereby address the Examiner's rejections in turn.

Applicants thank Examiner Barber for the courtesy of a telephone interview on May 19, 2004, requested by the undersigned to discuss: i) the Examiner's assertion in the current Office Action that the recitation "subsequent to an installation of the cable" is not supported in the specification; and ii) that the Examiner did not consider, in the current Office Action, the Information Disclosure Statement filed February 9, 2004. During the interview, Applicants asserted that support for "subsequent to an installation of the cable" may at least be found: i) on page one, paragraph 1; ii) on page 3, paragraph 8; and iii) in the Abstract. The Examiner noted that she did not address the aforementioned recitation as a 35 U.S.C. § 112 rejection and instead noted it in the "Response to Amendment" section of the current Office Action. In response to Applicant's assertions, the Examiner agreed to withdraw the Notice of Finality, consider the Information Disclosure Statement filed February 9, 2004, and to issue a new non-final Office Action upon receiving a reply to the current Office Action.

I. Change to Attorney Docket Number

Please note that the Attorney Docket Number for this application is now 09242.0180-00.

II. Rejection of the Claims under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a)

In the Final Office Action dated March 16, 2004, the Examiner rejected Claims 1, 3-4, 8, and 10-11 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,550,976 ("*Cooper*") and rejected Claim 2 under 35 U.S.C. § 103(a) as being unpatentable over *Cooper* in view of WO 02/12943 A1 ("*Sutehall*"). Furthermore, the Examiner rejected Claims 14, 16, 17, 19, and 21 under 35 U.S.C. § 103(a) as being unpatentable over *Cooper* in view of U.S. Patent No. 5,214,733 ("*Sadler*") and rejected Claim 15 under 35 U.S.C. § 103(a) as being unpatentable over *Cooper* in view of *Sadler* further in view of *Sutehall*. Applicants respectfully traverse these rejections.

Applicants respectfully submit that the Examiner has not set forth prior art that teaches or suggests, for example, a conduit configured to receive at least one blown optical fiber subsequent to the installation of a cable. As a result, Applicants respectfully suggest that the Examiner has failed to make a *prima facie* case of anticipation with respect to Claims 1, 3-4, 8, and 10-11 and has failed to make a *prima facie* case of obviousness with respect to Claims 2, 14-17, 19, and 21. In order to make either a *prima facie* case of anticipation or a *prima facie* case of obviousness, the Examiner must set forth prior art that teaches or suggests every claim recitation. (See MPEP § 2143.) There is nothing in the prior art cited by the Examiner that discloses "a

first conduit configured to receive at least one first blown optical fiber subsequent to an installation of the cable and positioned external to the central strength member,” as recited by independent Claims 1 and 14.

Furthermore, Applicants respectfully submit that the previously cited prior art, *Cooper, Sutehall, and Sadler*, either individually or in any reasonable combination, at least do not disclose or suggest the aforementioned recitation from Claims 1 and 14. Accordingly, independent Claims 1 and 14 patentably distinguish the present invention over the cited art, and Applicants respectfully request withdrawal of the rejection of Claims 1 and 14.

Dependent Claims 2-4, 8, 10-11, 15-17, 19, and 21 are also allowable at least for the reasons above regarding independent Claims 1 and 14, and by virtue of their respective dependencies upon independent Claims 1 and 14. Accordingly, Applicants respectfully request withdrawal of the rejection of dependent Claims 2-4, 8, 10-11, 15-17, 19, and 21.

Moreover, Applicants respectfully request withdrawal of the objection to dependent Claims 5-7, 9, 12-13, 18, and 20 at least for the reasons above regarding independent Claims 1 and 14, and by virtue of their respective dependencies upon independent Claims 1 and 14.

In responding to Applicants' arguments submitted in the Amendment filed October 31, 2003, the Examiner stated that the claim language “subsequent to an installation of the cable” cannot be found in the specification. Moreover, the Examiner requested that Applicants point out where this terminology is utilized in the specification. (See Final Office Action, page 7, lines 18-20.) Support for the aforementioned claim

language can be found at least: i) on page one, paragraph 1; ii) on page 3, paragraph 8; and iii) in the Abstract. Accordingly, Applicants respectfully submit that the aforementioned claim language is fully supported by the application as originally filed.

III. Conclusion

In view of the foregoing remarks, Applicants respectfully request the reconsideration and reexamination of this application and the timely allowance of the pending claims. The preceding arguments are based only on the arguments in the Office Action, and therefore do not address patentable aspects of the invention that were not addressed by the Examiner in the Office Action. The claims may include other elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding argument in favor of patentability is advanced without prejudice to other bases of patentability.

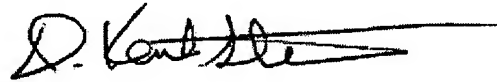
Applicants submit that the entry of this Request for Reconsideration would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicants submit that this claimed invention is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: September 16, 2004

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